APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,511	09/22/2003	Douglas A. Beigel	28864U	5823

20529   7590   12/20/2007

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ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
12/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/665,511	BEIGEL, DOUGLAS A.
	Examiner	Art Unit	
	Robert J. Utama	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>17 September 2007</u>.
2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-24</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of the Application

1.   In response to the amendment filed on 10/19/2007, the current status of the claims

are as follow: claim 1-24 are still pending. None of the claim has been cancelled or

withdrawn.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 10/19/2007 has been entered.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and
> distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claim 1-24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards

as the invention. The independent claim 1, 11 and 24 contain the limitation "wherein the

evaluation question are used in said at least one assessment course to determine which of said

assessment question are shown to said assessed user." The assessment course have been

defined to be a combination of a plurality of evaluation and assessment question, however, the

limitation requires that the answers in the evaluation question in at least one assessment

course determines which assessment question to be shown to the user. The examiner takes

the position that the limitation to be indefinite since the limitation describes the evaluation

question and assessment question being used independently of each other.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   **Claim 1-24 rejected under 35 U.S.C. 102(b) as being anticipated by Fletcher et al**

5,590,057.

Claim 1: The Fletcher reference provides a teaching of a system to perform an assessment for

compliance certification that comprised of: a database (see FIG. 1 item 20) that stores a

plurality of evaluation question (pre-test) and a plurality of assessment question, wherein the

subset of plurality of evaluation and assessment question are combinable to form a plurality of

assessment courses (see col. 4:37-57); a server (see FIG. 1 item 16) connected to said database

via a communication network having a processor to cause a graphical user interface to be

displayed to a network access device connected to said server via said communication device

(see FIG. 1 item 28 and 14); wherein said processor is configured to present to the assessed

user, via said graphical user interface, at least one of said plurality of assessment course (see

col. 4:21-30) and to receive response from the assessed user to the subset of said plurality of

evaluation and assesment question comprising said at lesat one of said plurality of assessment

course (see col. 5:10-27) and wherein the answer to the evaluation question are used in said at

least one assessment course to determined of said assessment question are shown to said user

(see col. 4:50-57).

Claim 2: The Fletcher reference provides a teaching of a first plurality of minimum course stored in said database each corresponding to said plurality of evaluation question included in each of said plurality of assessment course (see col. 4:32-37 and col. 4:20-32).

Claim 3: The Fletcher reference provides a teaching of a second plurality of minimum course stored in said database each corresponding to said plurality of assessment question included in each of said plurality of assessment course (see col. 4:50-55 and col. 4:20-32).

Claim 4 and 5: The Fletcher reference provides a teaching of calculating a first score based on said response to the subset of plurality of evaluation question an comprising at least one of said plurality of assessment course and a teaching of calculating a second score based on said response to the subset of plurality of assessment question an comprising at least one of said plurality of assessment course (see col. 4:32-37 and 4:50-55).

Claim 6 and 7: The Fletcher reference provides a teaching of having a processor to determine whether said first score is equal to exceeds one of said first plurality of minimum score corresponding to said plurality of evaluation question comprising at least one of said plurality of assessment course and to determine whether said first score is equal to exceeds one of said second plurality of minimum score corresponding to said plurality of evaluation question comprising at least one of said plurality of assessment course (see col. 4:32-37 and 4:50-55).

Claim 11: The Fletcher reference provides a teaching of a computer-implemented method to perform an assessment for compliance certification that comprised of: storing a plurality of evaluation question and plurality assessment question, wherein subset of said plurality of evaluation and assessment question are combinable to form a plurality of assessment course (see col. 4:37-57); causing a graphical user interface to be displayed over a communication network, to an assessed user (FIG 1); receiving a selection from said assessed user via said graphical user interface wherein said selection is indicative of one of said plurality of assessment courses (see col. 4:26-32); presenting to said assessed user, via graphical user interface the subset of plurality evaluation and assessment question comprising at least one of

said plurality of assessment courses (FIG. 6) and receiving a plurality of responses from said

assessed user to the subset of said plurality of evaluation and assessment question comprising

said at least one of assessment courses (col. 5:10-20); whereby plurality of responses can be

scored in order to determine whether said assessed user should receive certification for said at

least one of said plurality of assessment courses (see col. 7:45-62) and wherein the answer to

the evaluation question are used in said at least one assessment course to determined of said

assessment question are shown to said user (see col. 4:50-57).

Claim 12: The Fletcher reference provides a teaching of storing a first plurality of minimum

course stored in a database, each corresponding to said plurality of evaluation question

included in each of said plurality of assessment course (see col. 4:32-37 and col. 4:20-32). The

Fletcher reference provides a teaching of storing a second plurality of minimum course stored

in a database each corresponding to said plurality of assessment question included in each of

said plurality of assessment course (see col. 4:50-55 and col. 4:20-32).

Claim 13: The Fletcher reference provides a teaching of calculating a first score based on said

response to the subset of plurality of evaluation question an comprising at least one of said

plurality of assessment course and a teaching of calculating a second score based on said

response to the subset of plurality of assessment question an comprising at least one of said

plurality of assessment course (see col. 4:32-37 and 4:50-55). The Fletcher reference provides

a teaching of having a processor to determine whether said first score is equal to exceeds one of

said first plurality of minimum score corresponding to said plurality of evaluation question

comprising at least one of said plurality of assessment course and to determine whether said

first score is equal to exceeds one of said second plurality of minimum score corresponding to

said plurality of evaluation question comprising at least one of said plurality of assessment

course (see col. 4:32-37 and 4:50-55).

Claim 14: The Fletcher reference provides a teaching of presenting to said assessed user, via

graphical user interface, an indication that they are to receive certification for said at least one

of said plurality of assessment courses when both said determination step are positive (see col. 5:45-62).

Claim 22: The Fletcher references provides a teaching of a computer program product comprising of a computer usable medium control logic stored therein for causing a computer program to perform assessment for compliance certification, comprised of: a first readable computer program code to cause the computer to store plurality of evaluation and assessment question, wherein subset of said plurality of evaluation and assessment question are combinable to form a plurality of assessment courses (see col. 4:37-57); a second computer readable program code to display a graphical user interface to be displayed over a communication network, to an assessed user (FIG 1); a third computer program to cause the computer to receive a selection from said assessed user via said graphical user interface wherein said selection is indicative of one of said plurality of assessment courses (see col. 4:26-32); a fourth computer program code to cause the computer to present said assessed user via a graphical user interface the subset of plurality evaluation and assessment question comprising at least one of said plurality of assessment courses (FIG. 6); a fifth computer program code to cause the computer to receive a plurality of responses from said assessed user to the subset of said plurality of evaluation and assessment question comprising said at least one of assessment courses (col. 5:10-20); whereby plurality of responses can be scored in order to determine whether said assessed user should receive certification for said at least one of said plurality of assessment courses (see col. 7:45-62) and wherein the answer to the evaluation question are used in said at least one assessment course to determined of said assessment question are shown to said user (see col. 4:50-57).

Claim 23: The Fletcher reference provides a teaching of a sixth program code to store a first plurality of minimum course stored in a database, each corresponding to said plurality of evaluation question included in each of said plurality of assessment course (see col. 4:32-37 and col. 4:20-32). The Fletcher reference provides a teaching of a seventh program code to

store storing a second plurality of minimum course stored in a database each corresponding to

said plurality of assessment question included in each of said plurality of assessment course

(see col. 4:50-55 and col. 4:20-32).

Claim 24: The Fletcher reference provides a teaching of an eight program code to calculate a

first score based on said response to the subset of plurality of evaluation question an

comprising at least one of said plurality of assessment course and a tenth program code to

calculate a second score based on said response to the subset of plurality of assessment

question an comprising at least one of said plurality of assessment course (see col. 4:32-37 and

4:50-55). The Fletcher reference provides a teaching of a ninth program code to determine

whether said first score is equal to exceeds one of said first plurality of minimum score

corresponding to said plurality of evaluation question comprising at least one of said plurality

of assessment course and an eleventh program code to determine whether said first score is

equal to exceeds one of said second plurality of minimum score corresponding to said plurality

of evaluation question comprising at least one of said plurality of assessment course (see col.

4:32-37 and 4:50-55).

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a whole
> would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall not be negatived by
> the manner in which the invention was made.

8.   **Claim 8, 17, 20 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over**

Fletcher US 5,590,057 and Allison US 6,546,230.

Claim 8 and 21: The Fletcher does not provide a teaching where the communication network

is at least a portion of the global, public Internet. However, the Allison reference provides a

teaching where the communication network is at least a portion of the global, public Internet
(see Allison FIG 1. item 80 and col. 5:15-30).   Therefore, it would have been obvious to one of
ordinary skilled in the art to include the feature of provides a teaching where the
communication network is at least a portion of the global, public Internet, as taught by Allison,
because it would allow the training to be done remotely (see Allison col. 2:15-23).

Claim 17 and 20: The Fletcher reference fails to provide a teaching of displaying a deficiency
macro to said assessed user, via said graphical user interface, when one of said plurality of
responses to the subset of evaluation/assessment question comprising at least one of said
plurality of assessment courses is indicative of "No". However, the Allison reference provides a
teaching of displaying a deficiency macro to said assessed user, via said graphical user
interface, when one of said plurality of responses to the subset of evaluation/assessment
question comprising at least one of said plurality of assessment courses is indicative of "No"
(see col. 10:30-45 and FIG. 7).   Therefore, it would have been obvious to include the feature of
displaying a deficiency macro to said assessed user, via said graphical user interface, when one
of said plurality of responses to the subset of evaluation/assessment question comprising at
least one of said plurality of assessment courses is indicative of "No", as taught by Allison, in
order to inform the assessed user which area that the user need to concentrate in order to
qualify for the certification (see col. 10:40-45).

9.   **Claim 9-10, 15, 18 rejected under 35 U.S.C. 103(a) as being unpatentable over
Fletcher US 5,590,057.**

Claim 9-10, 15 and 18: The Fletcher reference does not provide a teaching wherein each of
the responses from the assessed user to the subset of plurality of assessment question
comprising said at lease one of the plurality courses in indicative of "Yes" and "No" and the
Fletcher reference does not provide a teaching where each of the responses from the assessed
user to the subset of plurality of assessment question comprising at least one of assessment

course is indicative of one of the following "Yes", "No" and "Not Applicable". Instead, the

Fletcher reference provides a teaching wherein each of the responses from the assessed user to

the subset of plurality of assessment question comprising said at lease one of the plurality

course in the form of multiple choice (see FIG. 6).

At the time the invention was made, it would have been an obvious matter of design

choice to a person of ordinary skilled in the art to choose between the multiple choice as

disclosed by Fletcher and "Yes" and "No" binary (and "Yes", "No" and N/A) choices as claimed

by the applicant. One of ordinary skilled in the art would have be expected the multiple choice

form of Fletcher and the binary choice form of applicant's invention to perform equally well in

receiving user's input. Therefore, it would have been prima facie obvious to modify Fletcher to

obtain the invention as specified in claim 9-10, 15 and 18 because such modification would

have been considered a mere design consideration which fails to patently distinguish over the

prior art of Fletcher.

Claim 16 and 19: The Fletcher reference does not provide a teaching of responses to the

subset of plurality of evaluation and assessment question comprising said at least one of said

plurality of assessment courses, said weight being relative to weight of other of said plurality of

responses, based on compliance with at least one goal of said certification. Instead, the

Fletcher reference provides a teaching where responses to the subset of plurality of evaluation

and assessment question comprising said at least one of said plurality of assessment courses,

said weight being equal to weight of other of said plurality of responses.

At the time the invention was made, it would have been an obvious matter of design

choice to a person of ordinary skilled in the art to choose between the identical weight as

disclosed by Fletcher and relative weight as claimed by the applicant. One of ordinary skilled

in the art would have identical weight of Fletcher and the relative weight of applicant's

invention to perform equally well in grading user responses. Therefore, it would have been

prima facie obvious to modify Fletcher to obtain the invention as specified in claim 16 and 19

because such modification would have been considered a mere design consideration which fails

to patently distinguish over the prior art of Fletcher.

Response to Arguments

10.   Applicant's arguments with respect to claim 1-24 have been considered but are moot in

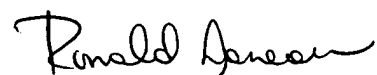view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Robert J. Utama whose telephone number is (571) 272-1676.

The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert Pezutto can be reached on (571)272-6996. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

would like assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RU

RONALD LANEAU
PRIMARY EXAMINER

12\18\07